

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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In re:	:	Chapter 13
	:	
MATTHEW MOONEY,	:	Case No. 16-15765 (ELF)
	:	
Debtor	:	

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**OBJECTION OF FRANKLIN MINT FEDERAL CREDIT UNION  
TO CONFIRMATION OF THE AMENDED CHAPTER 13 PLAN**

TO: THE HONORABLE ERIC L. FRANK,  
CHIEF UNITED STATES BANKRUPTCY JUDGE

Franklin Mint Federal Credit Union ("FMFCU"), by and through its undersigned attorneys, hereby objects to confirmation of the Amended Chapter 13 Plan dated February 15, 2017 (the "Plan") proposed by Matthew Mooney (the "Debtor"), and in support thereof represents as follows:

**BACKGROUND**

1. On February 20, 2015, FMFCU made certain loans, advances, and extensions of credit to the Debtor in the amount of \$56,700.00 (the "Loan") pursuant to the terms of that certain Note for Loans Secured by Real Estate dated February 20, 2015 (the "Note").

2. In consideration for the Loan, the Debtor executed and delivered to FMFCU a Mortgage also dated February 20, 2015 (the "Mortgage"), encumbering the real property and improvements thereon known as 806 Tremont Drive, Uwchlan Township, Pennsylvania (the "Mortgaged Property").

3. On August 15, 2016 (the "Petition Date"), the Debtor filed a voluntary petition pursuant to Chapter 13 of Title 11 of the United States Code (the "Bankruptcy Code").

4. As of the Petition Date, FMFCU held a claim secured by the Mortgaged Property in the principal amount of no less than \$54,601.80, exclusive of interest, fees, and costs that accrued prior to the Petition Date (the "Claim"). The Claim was filed on January 3, 2017.

5. Prior to the Petition Date, the Debtor had failed to make multiple payments to FMFCU on account of the Mortgage in an amount totaling \$4,147.00. See Claim.

6. On February 15, 2017, the Debtor filed the Plan.

7. Pursuant to the terms of the Plan, the Debtor proposes to retain the Mortgaged Property while continuing to make payments directly to his secured creditors pursuant to the original contract terms, and while making additional payments on account of his pre-petition arrears through the Plan. See Plan, ¶¶ 5-6.

8. To date, the Debtor has failed to make all of his post-petition payments to FMFCU on account of the Loan as proposed by the Plan. See id.

9. Accordingly, FMFCU objects to confirmation of the Plan pursuant to Section 1325 of the Bankruptcy Code.

#### **THE RELIEF REQUESTED AND THE REASONS THEREFOR**

10. The Bankruptcy Code provides that a Chapter 13 plan shall be confirmed if it "complies with the provisions of this chapter and with other applicable provisions of this title." 11 U.S.C. § 1325(a)(1).

11. The Bankruptcy Code also provides that a Chapter 13 plan shall be confirmed if "the debtor will be able to make all payments under the plan and to comply with the plan." 11 U.S.C. § 1325(a)(6).

12. To date, the Debtor has failed make payments to FMFCU on account of all of his post-petition obligations under the Loan.

13. In fact, to date, FMFCU has only received two payments on account of the Debtor's post-petition payment obligations under the Loan, as follows:

10/31/2016: \$515.00 (applied to September 2016)  
12/09/2016: \$359.17 (applied to October 2016)

14. The Debtor presently owes the following post-petition payments to FMFCU on account of the Loan:

10/05/2016: \$156.17  
11/05/2016: \$515.00  
12/05/2016: \$515.00  
01/05/2017: \$515.00  
02/05/2017: \$515.00  
03/05/2017: \$515.00

TOTAL: \$2,732.02

15. Accordingly, the Debtor cannot make all payments as proposed by the Plan and has otherwise failed to comply with the Plan, in violation of the requirements of the Bankruptcy Code. See 11 U.S.C. § 1325(a)(6).

16. FMFCU expressly reserves the right to raise further objections to confirmation of the Plan, whether at the hearing on confirmation of the Plan, or if an amended plan is proposed by the Debtor.

### **CONCLUSION**

17. For the foregoing reasons, confirmation of the Plan should be denied.

WHEREFORE, Franklin Mint Federal Credit Union respectfully requests the entry of an order denying confirmation of the Plan for the foregoing reasons, together with such other and further relief as is just and proper.

Respectfully submitted:

KLEHR | HARRISON | HARVEY |  
BRANZBURG LLP

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Dated: March 21, 2017